

**MINUTES OF THE
CALIFORNIA INFRASTRUCTURE AND
ECONOMIC DEVELOPMENT BANK**

For the meeting held on
Tuesday, February 26, 2008 – 1:30 p.m.
1001 I Street, Second Floor
Sierra Hearing Room
Sacramento, California 95814

Chairwoman Evelyn Matteucci called the meeting of the California Infrastructure and Economic Development Bank (I-Bank) Board to order at approximately 1:33 p.m.

1. Call To Order and Roll Call.

Evelyn Matteucci represented the Secretary of the Business, Transportation and Housing Agency.

Paul Rosenstiel represented the State Treasurer.

Leslie Lopez represented the Secretary of the State and Consumer Services Agency.

Anne Sheehan represented the Director of the Department of Finance.

D. Everett Rice, Governor's appointee, was present.

The following I-Bank staff members were in attendance: Stan Hazelroth, Roma Cristia-Plant, Tara Dunn and Shelly Renner.

2. Executive Director's Report.

Executive Director Stan Hazelroth reported to the Board the following:

- The I-Bank has started the process to move into new office space.
- The auction rate securities market is troubled, resulting in many failed auctions and causing unusually high spikes in the bond interest rates. Existing conduit bond borrowers have requested that the I-Bank facilitate converting the auction rate bonds to fixed rate or other interest rate modes. As a result, a couple of extra board meetings have been scheduled over the next few months to handle the extra unanticipated workload.
- Bonds were issued in December 2005 to refund State General Fund emergency apportionment loans made to three financially troubled school districts. One of those bond series was sold as auction rate securities since the school district had anticipated selling surplus property and repaying a portion of its emergency loan. The I-Bank has received instructions from the Department of Finance to refinance the auction rate securities bonds for the Oakland Unified School District to fixed rate bonds, and staff is proceeding on this new bond issuance.
- That he will be speaking the following week at the Information Management Network Public-Private Partnership Symposium in a session on Performance Based Infrastructure.
- Superior Lithographics industrial development bonds closed today.

Mr. Rosenstiel requested legal counsel to determine if the Board could delegate limited and specific authority to the Executive Director to approve bonds converting from auction rate to another interest rate mode to facilitate these types of transactions. Ms. Renner indicated that she did not think that was possible, but would conduct further research and ensure that the Board is consulted.

Consent Items:

3. Approve minutes from the meeting held on January 29, 2008.

Chairwoman Matteucci asked if there were any questions or comments from the Board or those present regarding the minutes. There being none, Ms. Sheehan moved to approve the minutes and Mr. Rosenstiel seconded the motion. The minutes were approved unanimously.

Action Items:

4. Adopt resolution approving the sale, issuance and delivery of 501(c)(3) revenue bonds for The Walt Disney Family Museum, LLC or a related party (San Francisco) for an amount not to exceed \$75,000,000.

Mr. Hazelroth presented a staff report in which he indicated that the proceeds of the proposed 501(c)(3) fixed rate tax exempt revenue bonds would be used to build a new museum in the Presidio that will highlight the career and life of Walt Disney. Mr. Hazelroth also introduced Nikolai Sklaroff, of JP Morgan. Mr. Hazelroth confirmed for Mr. Rosenstiel that the bonds will be issued as fixed-rate.

Chairwoman Matteucci asked for any questions or comments from those present. There being none, she entertained a motion to approve Resolution No. 08-03. Ms. Sheehan moved to approve the resolution and Mr. Rosenstiel seconded the motion. The Board unanimously approved the resolution.

Other Business.

5. Presentation by Bob Feyer of Orrick, Herrington & Sutcliffe LLP: Due diligence requirements related to conduit financings.

Mr. Feyer discussed the responsibilities of a conduit issuer's board in connection with the sale of conduit bonds. He first noted that there are two securities laws that affect the Board's responsibilities, the Securities Act of 1933 and the Securities and Exchange Act of 1934, both of which contain provisions called "anti-fraud rules" which make it illegal to carry out any type of fraud or misstatement or misrepresentation in connection with the offer or sale of any securities and that municipal securities are covered by these rules. More specifically, he pointed out that "Rule 10b5" under the 1934 Act is the rule which prohibits a material misstatement or the omission of any material information necessary to make the information contained in any kind of a securities offering document complete and accurate.

He noted that while the Securities and Exchange Commission (SEC) has brought actions and issued reports with regard to municipal securities, including actions against Orange County and the City of San Diego, those actions have only involved direct issuances of governmental bonds by governmental entities for its own debt purposes. He pointed out that there hasn't been any specific SEC guidance on the responsibilities or liabilities of a conduit bond issuer.

Mr. Feyer indicated that with respect to a conduit bond transaction, an issuer clearly states to the public on its offering documents that it is acting to facilitate the issuance of bonds and doesn't take responsibility for the content except for, generally speaking, two sections in the official

statement which are the description of the issuer and absence of issuer litigation sections. The remainder of the information contained in the offering documents is the responsibility of the conduit borrower.

Mr. Feyer noted that under SEC “Rule 15c2-12” the obligation to provide continuing disclosure to investors is placed on the conduit borrower with respect to the bond issue. To his knowledge, neither the SEC nor any other party has brought a successful claim against a conduit bond issuer for misstatements of disclosures in a conduit transaction. Despite these specific SEC guidelines about a conduit issuer’s liability, he stated that there is also a well understood principal in securities law that any party to a transaction has the responsibility to speak up if they have actual knowledge that there is a material misstatement or omission in the disclosure documents, and that this responsibility would apply to either the Board or staff of a conduit bond issuer. He advised that the Board and staff use common sense in the context of the transaction that’s actually being carried out.

Mr. Feyer gave an overview of the types of bond transactions the I-Bank and other conduit issuers consider and the types of disclosure involved with those transactions. He noted the importance of having an experienced financing team involved on the conduit bond issues so that the Board can feel assured that the transactions are being handled in a responsible manner and which could help minimize any risk of future problems in connection with bond issues.

With respect to what the Board can ask to look at and review, Mr. Feyer stated that the Board can ask for copies of any of the draft documents involved in a transaction that it is being asked to approve and can also ask the staff or financing team members questions about the transaction. However, he noted that consistent with the advice given earlier about the Board’s limited liability, the Board does not have a duty or an obligation to go beyond asking questions or to do independent investigation subject to the caveat that if the Board or staff is aware of something, it should be probed further for more information. Mr. Feyer said the bottom line is that he thinks there’s not a liability on the part of the Board members as a conduit bond issuer, and that the Board has the responsibility to oversee a process that’s done in a reasonable fashion with qualified participants, and that Board members are comfortable that the type of bond issue and the type of offering and the disclosure used fits the standards that are appropriate to the marketplace for the type of credit that’s being sold.

In response to questions raised by Ms. Sheehan and Chairwoman Matteucci, Mr. Feyer noted that to his knowledge conduit issuers have never been found liable for securities disclosure.

In response to questions raised by Mr. Rosenstiel, Mr. Feyer stated that the responsibility of the Board is limited to the disclosures about the issuer and the absence of litigation sections of the documents. He reiterated that the Board has the right to ask questions about matters already publicly acknowledged either because they are printed in the offering documents or otherwise publicly known. Mr. Feyer confirmed that asking questions about these matters doesn’t transfer that liability to the Board.

Chairwoman Matteucci called for any other business; there was none.

Public Comment.

Chairwoman Matteucci called for any public comment; there was none.

Adjournment.

Chairwoman Matteucci entertained a motion to adjourn. Ms. Sheehan moved to approve the motion and Ms. Lopez seconded the motion. The Board unanimously approved the motion and Chairwoman Matteucci adjourned the meeting at approximately 2:25 p.m.